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DEPARTMENT OF HEALTH AND WELFARE
Division of Medicaid

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INFORMATIONAL LETTER #97-8

DATE: July 15, 1997

TO: All Certified Long Term Care Facilities

FROM: John W. Hathaway, Chief
Bureau of Facility Standards

SUBJECT: **LEGISLATIVE CHANGE REGARDING NATCEP
IN FACILITIES WITH SUBSTANDARD CARE**

Enclosed is information we received from the Health Care Financing Administration, Region X Office, Seattle, Washington, which we believe will be of great interest to you.

Facility Standards will consider waiving, on a case-by-case basis, the two-year prohibition of a NATCEP offered in (not by) a facility in which substandard care has been identified. If your facility is in a two-year NATCEP ban now, and would like to request a waiver, please submit a written request to this office. Our mailing address is:

FACILITY STANDARDS BUREAU-DHW
PO BOX 83720
BOISE ID 83720-0036

If you have questions regarding the enclosed material, please contact Loretta Todd or Debby Ransom, Supervisors, Long Term Care Section, Bureau of Facility Standards at (208) 334-6626.

JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

JWH/nah
Enclosure
cc: Idaho Health Care Association

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DEPARTMENT OF HEALTH & HUMAN SERVICES



Health Care Financing Admin.
Region X
Blanchard Plaza Building
Room 800, M/S RX-48
2201 6th Avenue
Seattle, Washington 98121
Voice 206/615-2313
FAX 206/615-2435

June 12, 1997

Certification Improvement
STATE LETTER NO. 567

SUBJECT INDEX CATEGORY: 4

SUBJECT: Legislative Change - Waiver of Nurse Aide Training and
Competency Evaluation Program (NATCEP)
Prohibition in Certain Nursing Homes

The attached June 10, 1997, memorandum from the Deputy Bureau Director, Survey and Certification, Health Standards and Quality Bureau, subject as above, provides information concerning Public Law 105-15 (HR 968), Waiver of Medicare and Medicaid Nursing Facility Prohibition.

Please share this with any of your staff or other agencies who are involved with NATCEP.

If you have any questions, please contact your Regional Office state team at 206/615-2313.

Sincerely,

Teresa L. Trimble, Manager
Certification Improvement Cluster

Enclosure

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing
Administration
Health Standards & Quality Bureau
Center for Long Term Care

Memorandum

Date June 10, 1997

From Deputy Bureau Director
Survey and Certification, HSQB

Subject Legislative Change—Waiver of Nurse Aide Training and Competency Evaluation Program (NATCEP) Prohibition in Certain Nursing Homes

To Associate Regional Administrators, DHSQ
Regions I-X

Attached is a copy of Public Law 105-15 (H.R. 968) which was signed into law May 15, 1997, and which revises specific provisions of the Social Security Act (the Act) to permit a State to waive the 2-year prohibition of a NATCEP offered *in* (not *by*) certain nursing homes if the State:

- @ determines that there is no other such program offered within a reasonable distance of the facility;
- @ assures, through an oversight effort, that an adequate environment exists for operating the program in the facility; and
- @ provides notice of such determination and assurances to the State long term care ombudsman.

Prior to this legislative change, §§1819(f)(2) and 1919(f)(2) of the Act provided that States could not approve a NATCEP offered *by OR in* a nursing home when specified events had occurred in that facility regardless of any hardship the prohibition posed for the affected nurse aides who needed to complete the statutorily mandated training. Facilities operating under such a prohibition were forced to send their nurse aides to programs offered offsite by an outside entity which had been approved by the State to conduct the NATCEP. Sometimes the location of the alternative NATCEP was not within the commuting means of the nurse aides who require the training. This training is significant because the law requires that, in order to participate in Medicare and Medicaid as a nursing home provider, facilities can only use nurse aides that have received and successfully completed a NATCEP, specifically those facilities located in rural areas where another outside training source is inaccessible to nurse aides. Facilities that are currently under a 2-year NATCEP disapproval may now receive reconsideration under the new statutory revision, if they meet the criteria, to offer a facility-based program to be offered *in* the facility by another entity approved by the State.

We will be coordinating with the Bureau of Policy Development relative to any changes that may need to be made to existing regulations and manual instructions to reflect this statutory revision. We are confident that States in your region will continue to assess nursing home status, and make sound decisions, relative to a facility's ability to offer NATCEP.

Robert A. Streimer

Attachment

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PL 105-15, 1997 HR 968
PL 105-15, May 15, 1997, 111 Stat 34
(Cite as: 111 Stat 34)

UNITED STATES PUBLIC LAWS
105th Congress – First Session
Convening January 7, 1997

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Additions and Deletions are not identified in this document.

For Legislative History of Act, see I. H. database or Report for
this Public Law in U.S.C.C & A.N. Legislative History section.

PL 105-15 (HR 968)
May 15, 1997

WAIVER OF MEDICAID NURSING FACILITY PROHIBITION

An Act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering
nurse aide training and competency evaluation programs in certain nursing facilities.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,

<< 42 USCA §§ 1395i-3, 1396r >>

**SECTION 1. PERMITTING WAIVER OF PROHIBITION OF OFFERING NURSE AIDE TRAINING AND
COMPETENCY EVALUATION PROGRAMS IN CERTAIN FACILITIES.**

Section 1819(f)(2) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)) and section 1919(f)(2) of such Act (42
U.S.C. 1396r(f)(2)) are each amended.

- (1) in subparagraph (B)(iii), by inserting “subject to subparagraph (C),” after “(iii)”; and
- (2) by adding at the end of the following new subparagraph:

“(C) WAIVER AUTHORIZED, -Clause (iii)(1) of subparagraph (B) shall not apply to a program offered in (but not
by) a nursing facility (or skilled nursing facility for purposes of title XVIII) in a State if the State –

“(i) determines that there is no other such program offered within a reasonable distance of the facility.

“(ii) assures, through an oversight effort, that an adequate environment exists for operating the program in the
facility, and

“(iii) provides notice of such determination and assurances to the State long-term care ombudsman.”.

Approved May 15, 1997.

PL 105-15. 1997 HR 968

END OF DOCUMENT

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